IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1470 of 1998

Date of Decision: 17-6-2004

UNION OF INDIA

Versus

MADHU RAVJI

(for full cause title, see next sheet)

Coram:

The Hon'ble Mr.Justice Bhawani Singh, Chief Justice

The Hon'ble Mr.Justice H.K.Rathod, Judge

Whether approved for reporting?

For the Petitioner Mr.N.S.Shevde, Adv.

For the Respondent Mr.M.S.Trivedi, Adv.

PER: BHAWANI SINGH, CHIEF JUSTICE (ORAL):-

#. Grievance of Madhu Ravji, ex-class IV employee, (respondent) is that the petitioners (Railways) have not released his gratuity. Case of Railways is that the respondent overstayed in the Railway Quarter, did not surrender it on transfer as per Rules, therefore, it is competent to withhold the gratuity.

This question has been decided by the Apex Court in Gorakhpur University and others v. Dr.Shitla Prasad Nagendra and others (AIR 2001 SC 2433), in which, the Apex Court said:

Whether reporters of Local Papers may be allowed to see the Judgment?

"... This Court has been repeatedly emphasizing the position that pension and gratuity are no longer matters of any bounty to be distributed by Government but are valuable rights acquired and property in their hands and any delay in settlement and disbursement whereof should be viewed seriously and dealt with severely by imposing penalty in the form of payment of interest. Withholding of quarters allotted, while in service, even after retirement without vacating the same has been viewed to be not a valid ground to withhold the disbursement of the terminal benefits. Such is the position with reference to amounts due towards provident fund, which is rendered immune from attachment and deduction or adjustment as against any other dues from the employee ..."

Section 13 of the Payment of Gratuity Act, 1972, provides that:

"No gratuity payable under this Act and no gratuity payable to an employee employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop exempted under Section 5 shall be liable to attachment in execution of any decree or order of any Civil, Revenue or Criminal Court".

(See also Section 60(g), Civil Procedure Code, 1908)

The above decision of the Apex Court has been followed by this Court in decision dated September 23, 2003, Gujarat State Road Transport Corporation v. Kiritkumar Punjalal Barot (Letters Patent Appeal No.984 of 2003).

#. Consequently, we find no merit in this petition and the same is dismissed. Rule is discharged. Interim relief, granted earlier, shall stand vacated.

(BHAWANI SINGH)
CHIEF JUSTICE

(H.K.RATHOD)
JUDGE

(sunil)